

MILFORD PLANNING BOARD PUBLIC HEARING
December 16, 2014 Board of Selectmen's Meeting Room, 6:30 PM

Members Present:

Chris Beer, Chairman
Paul Amato
Steve Duncanson
Janet Langell
Judy Plant
Tim Finan, Alternate member
Susan Robinson, Alternate member

Staff:

Jodie Levandowski, Town Planner
Shirley Wilson, Recording Secretary
David Bosquet, Videographer

Excused:

Kathy Bauer
Tom Sloan

PUBLIC HEARING:

1. In accordance with the requirements of NH RSA 675:3, the Milford Planning Board will hold a Public Hearing on Tuesday December 16, 2014, at 6:30pm in the Board of Selectmen's meeting room at the Town Hall to discuss proposed amendments to the Town of Milford Zoning Ordinance as follows:
 - A. Revisions to Article IV, *Definitions*, to amend Groundwater and Manufactured Housing and remove Animal Feed Lot, Independent Senior Housing Units, and Leachable Wastes
 - B. Revisions to Article V: Section: 5.02.2:A.12, 5.03:E, 5.05.1:V, 5.07.1:K, and 5.08.2:A.6 to remove Senior Housing Developments
 - C. Revisions to Article VI: Section: 6.02.4 Wetland Conservation District, *Definitions*, to amend definition of Surface Water
 - D. Revisions to Article VI: Section: 6.03.2 Floodplain Management, *Definitions*, to remove definition of Manufactured Home and replace in its entirety with definition of Manufactured Housing
 - E. Revisions to Article VI: Section: 6.04.5:C Open Space Conservation District to amend paragraph relative to Senior Housing Developments
 - F. Revisions to Article X: Section 10.06.0 Expiration, to amend paragraph relative to a 2013 RSA change

MINUTES:

2. Approval of minutes from the 11/18/14 meeting.

NEW BUSINESS:

3. **Carolyn Parker for Lehigh Gas/Getty Realty Corp - Amherst St - Map 26, Lot 185;** Public Hearing for a minor site plan to construct a new 24' X 32' overhead canopy and a waiver request from Milford Development Regulations, Article V, Section 5.04.KK, *Landscaping requirements*.
4. **Priscilla J & Richard A Brown and Raisanen Homes Elite, LLC/West Meadows - West St - Map 39, Lot 70;** Public Hearing for major open space subdivision, in the Residence A District, creating thirty-four (34) new residential lots with associated site improvements and a waiver request from Milford Development Regulations, Article VII Section 7.02, Roadway Standards Charts pertaining to road length and dimensional requirements.

OTHER BUSINESS:

5. **Robert & Martha Cunningham – Lincoln St – Map 29, Lot 88;** Discussion
6. **Ashwood Development, LLC – Falcon Ridge Development – Maple St/Falcon Ridge Rd – Map 3, Lots 5 through 5-45.** Request to amend revised improvement timetable and security relating to Falcon Ridge Development. (*Tabled from 10/21/14*)

Chairman Beer called the meeting to order at 6:30PM. He introduced the Board and staff and explained the ground rules for the public hearing. Tim Finan, alternate member was called to sit.

PUBLIC HEARING:

In accordance with the requirements of NH RSA 675:3, the Milford Planning Board will hold a Public Hearing on Tuesday December 16, 2014, at 6:30pm in the Board of Selectmen's meeting room at the Town Hall to discuss proposed amendments to the Town of Milford Zoning Ordinance as follows:

Revisions to Article IV, *Definitions*, to amend Groundwater and Manufactured Housing and remove Animal Feed Lot, Independent Senior Housing Units, and Leachable Wastes

Revisions to Article V: Section: 5.02.2:A.12, 5.03:E, 5.05.1:V, 5.07.1:K, and 5.08.2:A.6 to remove Senior Housing Developments

Revisions to Article VI: Section: 6.02.4 Wetland Conservation District, *Definitions*, to amend definition of Surface Water

Revisions to Article VI: Section: 6.03.2 Floodplain Management, *Definitions*, to remove definition of Manufactured Home and replace in its entirety with definition of Manufactured Housing

Revisions to Article VI: Section: 6.04.5:C Open Space Conservation District to amend paragraph relative to Senior Housing Developments

Revisions to Article X: Section 10.06.0 Expiration, to amend paragraph relative to a 2013 RSA change

Chairman Beer read the notice of hearing into the record and gave a brief overview of each. There were no comments from the Board.

Chairman Beer then opened the discussion to the public; there being none, the public portion of the meeting was closed.

J. Langdell made a motion to post and publish the proposed amendments to the March, 2015 warrant. S. Duncanson seconded and all in favor.

MINUTES:

S. Duncanson made a motion to approve the minutes from the 11/18/14 meeting, as submitted. J. Plant seconded with J. Langdell and P. Amato abstaining and all else in favor.

NEW BUSINESS:

Carolyn Parker for Lehigh Gas/Getty Realty Corp - Amherst St - Map 26, Lot 185; Public Hearing for a minor site plan to construct a new 24' X 32' overhead canopy and a waiver request from Milford Development Regulations, Article V, Section 5.04.KK, *Landscaping requirements*.

No abutters were present.

Chairman Beer recognized:

Carolyn Parker, representing Lehigh Wholesale Gas

Chairman Beer read the notice and stated that the application was complete per staff review. J. Langdell made a motion to accept the application. P. Amato seconded and all in favor. P. Amato made a motion that this application did not pose potential regional impact. J. Langdell seconded and all in favor. S. Wilson read the abutters list into the record.

C. Parker explained the lease with Getty Realty Corp and the existing site conditions. She said it is an odd shaped lot and we've received a special exception from the ZBA to construct the overhead canopy within the setbacks. She submitted revised plans dated 12/16/14 that address most of the comments from the Staff Memo of the same date. The island will stay, but we are proposing to remove the middle dispenser and to install a canopy with columns on the outside of the island with safety bollards. The canopy will be fifteen (15') high with a three (3') ft

deck. It will have two vinyl 3D graphics that will be illuminated as halos. This plan incorporates the parking that was approved for auto sales but the spaces may not be shown correctly.

J. Levandowski ended a brief discussion pertaining to the ownership of the site by stating that there is an owner authorization letter from Leemilt's Petroleum Inc/Getty Realty Corp in the file.

J. Langdell inquired about room for some of the parking spaces and if there will be auto sales. C. Parker said she would verify if the site will be just service and gas or if there will be any auto sales. J. Levandowski read from the Development Regulations; *for automotive services, gas stations, auto dealers, auto repair and body shops the requirements are 1 space per employee plus 1 space per 1,000SF or 4 spaces per bay*. Further discussion ensued. P. Amato noted that there wasn't a problem with parking until they started selling cars and it got a little tight. C. Parker said when the lot is striped; she can get eight (8) parking spaces there without using the snow storage area in the rear. C. Beer stated that the minimum parking requirements will need to be determined and shown on the plan. C. Parker added that the open space calculations and the locust map will also be put on the plan.

J. Langdell asked if there needed to be a note for snow storage or removal. J. Levandowski replied that although notes have been done in the past, it's not a requirement; they just need to demonstrate where the snow will be stored. This is a tough site, and DPW has an agreement with the owner to use this site for temporary snow storage for the Town. J. Langdell asked if the amount of disturbance here would trigger the stormwater management process. S. Wilson noted that disturbance of 5,000 SF or greater requires a stormwater permit. J. Levandowski said that staff recommendation #10 should be removed as it would not be required in this instance. J. Langdell brought up the Environmental Coordinator's comments that an environmental consultant be present when the footings are dug. C. Parker said we will take proper precautions during construction and offered to make that request a note on the plan. There will be a downspout on the canopy and should be even less contamination from stormwater than exists now. J. Levandowski added that there is a full remediation plan, prepared several years ago by GeoInsight, Inc. on file for existing contamination on this site and practices have been put in place resulting from an underground storage tank leak.

P. Amato brought up landscaping. C. Parker said this is an existing site but she could add some plantings near the pylon sign and maybe some planters at the bollards by the canopy. There was also discussion regarding the boundaries, curb cuts, traffic patterns and directional striping. S. Duncanson said additional islands would be a hindrance for DPW. J. Plant said we need to be mindful of the large tanker trucks mobility in our requirements. T. Finan said the big mass of pavement isn't eye pleasing and that can be a difficult intersection, but maybe the owner and the Town could work together and referenced the Oval Area Improvements plan from a few years ago that incorporated some of this property. J. Langdell explained that those plans had some major changes for traffic flow there but were only conceptual.

Chairman Beer opened the discussion to the public.

A. Frazier said that people gather on the hill in the shade of the sign for the Labor Day Parade and that hill would be a great place for a shade tree. J. Langdell said some minimal landscaping improvements to this site would be very amenable to the Board. P. Amato added that the tree is important and the minimal improvements would not be a hardship on anybody.

Chairman Beer closed the public portion of the meeting.

J. Langdell made a motion to partially waive the landscape requirements under Milford Development Regulations, Article V, Section 5.04.KK, provided that the applicant and owner install plantings at the pylon signs, planters at the island and a hardy native tree on the green area of the hill. P. Amato seconded and all in favor.

J. Levandowski suggested the applicant show the two sign locations on the plan and there was further discussion on parking requirements.

P. Amato made a motion to grant conditional approval of the application, subject to: staff recommendations, adding a note that an environmental consultant be present when the footings are dug, the signs be shown on the plan, the landscaping, as discussed be shown on the plan and that the applicant work with staff to detail the parking and calculations per the minimum requirements. J. Langdell seconded and all in favor.

Priscilla J & Richard A Brown and Raisanen Homes Elite, LLC/West Meadows - West St - Map 39, Lot 70; Public Hearing for major open space subdivision, in the Residence A District, creating thirty-four (34) new residential lots with associated site improvements and a waiver request from Milford Development Regulations, Article VII Section 7.02, Roadway Standards Charts pertaining to road length and dimensional requirements.

Chairman Beer read the notice and subsequent email regarding a typographical correction dated today. He stated that the application was complete per staff review. J. Langdell made a motion to accept the application. S. Duncanson seconded and all in favor. P. Amato made a motion that this application did not pose potential regional impact. S. Duncanson seconded and all in favor. S. Wilson read the abutters list into the record.

Abutters Present:

Joseph Perez, Philatelic Realty Inc.

Chairman Beer recognized:

Chad Branon, Fieldstone Land Consultants, PLLC

C. Branon said they met with the Board in September for a conceptual discussion where they received some input but no decisions were made. He also confirmed that they opted to bypass the design review process and go straight to final application. He then presented a conventional subdivision plan dated 11/17/14 for the 25.14 acre property with approximately 324 linear ft of frontage along West St. The terrain is mild with slopes ranging from 5%-8% and there are jurisdictional wetlands depicted. The proposal is to subdivide the parcel into thirty-four (34) residential single family lots although the layout does support thirty-five (35) lots. The conventional subdivision plan meets all zoning and subdivision regulations and does not require any waivers. He also presented an open space subdivision plan (option A) dated 11/17/14 with a 2,340 ft loop road and the final proposed open space layout plan (option B) dated 11/17/14 with a cul-de-sac. We met with staff, the Conservation Commission, the Fire Department and DPW and received their support to go ahead with Plan B and for the road length waiver. This layout presents a better design and has less road that the Town will eventually have to maintain. This development will be serviced by Town utilities and we will provide additional hydrants. It also pulls the lots in closer to the road and increases the open space to 9.5 acres.

There was consensus from the Board to schedule a site walk. The date was set for Saturday 12/20/14 at 9:00am.

P. Amato inquired about the open space calculations. C. Branon reviewed note #5 and said the math calculations will be corrected; note #8 has the correct area and we do exceed all the requirements with 50% or 11.85 acres and of that roughly 3 acres is dry and useable. The Conservation Commission requested that we try to incorporate as much of the wetlands into the open space area as possible and also provide them with some dry land to walk and manage the open space area. Those revisions have been made, just not shown on these plans. There was some discussion amongst the Board regarding the submittal and packets and a brief discussion pertaining to open space subdivisions in the Residence A District.

P. Amato inquired about the back lot lines of the wet areas. C. Branon reiterated that these were the plans presented at the conceptual discussion and they don't show any of the revisions. He then distributed reduced color copies of the revised plan dated 11/24/16 and clarified that it was sheet 6 of the submitted plan set. We are showing build out on the plan and we are not seeking relief for any regulations pertaining to lot size, setbacks or home placement. The conventional layout actually proved out at 35 lots and the market for this design is starter homes. We have received a lot of support from Boards and staff as this will provide something unique to this area. J. Langdell said there is benefit to this plan because this is a nicer design but there are a number of developments, including one very close by, that are the same type of housing. This Board has discussed at length the desire to provide homes at a price point that are affordable to more people. C. Branon stated that there will be different house options and the price point for these ranch, cape and split homes will be the low \$200's. It is

critical to be able to yield the density in order to target the market we understand there is a need for; the working or middle class.

P. Amato inquired about the cross-hatched areas. C. Branon replied that they are open space easement areas. J. Levandowski clarified that those areas were not part of the open space calculations but are created to satisfy the open space requirements of the Zoning Ordinance, Article VI, Section 6.04.6:B, *Dimensional Standards*. C. Branon showed the easements at lots 17, 18, 32, 33, and 34 and stated that this is the direction we chose to address those regulations after discussion with the Board in September. The regulations do not technically have any requirements for accessibility; they are non-disturbed areas that are guaranteed to be a vegetative buffer. This is no different than the Melendy Rd subdivision; all lots extend to the perimeter and contain easement areas that are a buffer between the developable area and the back property. J. Langdell brought up the functionality. J. Levandowski stated that the Bill Parker, Zoning Administrator, determined that since this was in the Zoning Ordinance, the Board did not have the ability to grant a waiver; however, this design was a solution to meet that intent. T. Finan asked what the intent was. J. Levandowski then read the Ordinance and said we don't really know what the intent of the standard is so the easements can be public or private. C. Branon said the wetlands here are not all standing water. It is shallow and seasonal but most people won't even know that land is wet. There are a lot of wetlands in the open space, but the open space is also a lot larger than it needs to be. There is some value here because people will be able to walk on these easements. Discussion on the functionality and language of the proposed easements ensued.

J. Langdell inquired about a loop road versus a dead end road. P. Amato referenced Singer Brook Dr and said there has been past discussion that determined that as long as the road up to the loop is 1,000ft or less, then it only counts to that point.

P. Amato stated that this Board has spent a great deal of time discussing what constitutes a good neighborhood, and this clearly what some of us were thinking. As stated, this serves a need that we've all felt is the way to go; affordable houses close to downtown on town utilities.

T. Finan inquired who would own the cul-de-sac and who will maintain it. C. Branon replied the Town. We've met with DPW a number of times and they've requested some modifications. One being that the curbing be removed from the inside of the cul-de-sac to be able to use it for snow storage.

Chairman Beer opened the discussion to the public pertaining to the layout and density.

Robert Cunningham, Lincoln St, stated that was a very small piece of land for all the cars that will come out of there; at least fifty cars will come out in the morning by the high school. C. Beer said traffic impact will be addressed.

Andy Seal, West St, said he heard the developer say they've gotten all this support from the different boards, but they haven't talked to anybody who's a property owner on West St. There is a lot of concern from folks who just found out about this project. Traffic is a huge concern with two cars per house totaling 68 cars. This just doesn't make any sense. J. Levandowski verified that the underlying conventional plan does meet the Zoning Ordinance by right, allowing thirty-five (35) lots and stated that the applicant is proposing one lot less at thirty-four (34) lots.

Audrey Fraizer, Conservation Commission Chair, said we are concerned with the house lots that contain a significant amount of wetlands and buffer, specifically lots 39/70-8 and 39/70-9. The buffer on lot 70-8 comes right to the corner of the house. Although technically the buffer isn't being impacted, it is a postage stamp size lot and will be very difficult to deal with. C. Branon reiterated that we meet all of the regulations and we are showing the largest home footprint on lot 70-8. It could end up being a much smaller footprint but we will have to adhere to those zoning restrictions. This plan does satisfy all your requirements and we did seek and get relief from the ZBA on 12/4/14 prior to coming to this Board. The Conservation Commission did provide comments to the ZBA for that hearing, as part of the process. We have made revisions to address the Commission's comments but it seems like there have been additional reviews and comments subsequent to those meetings and we haven't had the opportunity to go through all those items. J. Langdell inquired what the ZBA special exception covered. C. Branon replied that it was for wetlands disturbance for the roadways, stormwater and associated buffer

disturbance for the two driveway cross culverts. It helps those two lots some because the buffer on the front side can be impacted for drainage and driveway construction but the sideline will have to remain intact for future development. J. Langdell noted that this is an example of conditions that are within regulations but may create situations for future owners that may not know there is a buffer and want to build a deck.

Chairman Beer closed the public portion of the hearing.

P. Amato made a motion that this development move forward as an open space subdivision. S. Duncanson seconded and all in favor. P. Amato made a motion to set the density determination for this development at no more than thirty-four (34) lots as shown on open space subdivision plan B. S. Duncanson seconded and all in favor.

C. Branon said the proposed lots range from .25 acres to .48 acres in size and explained the revisions that evolved from the conceptual plan and from the Conservation Commissions comments and requests. We received a special exception for the 9,798 SF wetland impact shown on the plan and for 16,195SF of buffer impact. The road alignment was designed around the topography of the land on the north and west sides and minimizes buffer impact. The proposed road length is 1,850 linear ft, measured from West St to the center of the cul-de-sac; 2,100 linear ft measured all the way around the cul-de-sac. The road is designed at 24ft wide with a closed drainage system. This allows us to collect all the stormwater and convey it into the two collection areas on site. It will give us some flexibility and will also minimize associated wetland impacts. We will submit for state permitting after initial review with staff. We have met with the various departments numerous times and have no issues with comments listed in the staff memo dated 12/16/14.

C. Branon said there is a clear interest from staff to put in a sidewalk, although from a cost standpoint we would prefer to not have one. DPW has made a recommendation to further reduce the road width to twenty-two (22') ft of pavement, curb to curb, so with that concession or some type of relief, we can accommodate a sidewalk for this development. The regulations don't address closed drainage designs very well. The road standards chart states 22ft of pavement with 4ft gravel shoulders, but we would not be doing the shoulders so we're asking for the waiver to pave a 24ft width and will modify the waiver request. J. Langdell asked if there would be a grassy strip between the road and sidewalk. C. Branon replied no. P. Amato inquired if the sidewalk would be raised or if it would be striped. C. Branon said we've had discussion with DPW and they would prefer striped for ease of maintenance and that would be our preference. If the sidewalk were to go on top of the curb, which we need for drainage requirements, it would have to run adjacent to the road. J. Langdell referenced Bernardston, MA. C. Beer said his concern was that the sidewalk would be below the curb and if a car was parked on the road, the sidewalk would be blocked. C. Branon said there has been discussion with DPW regarding possible no parking signs or striping some indicator of that. J. Plant said she would rather see a standard or traditional sidewalk over the striping. It is beneficial to the sale of home and for safety reasons. J. Langdell suggested that maybe one side of the road be striped for a pedestrian/bike lane with visuals and accommodate for parking on the other side. C. Branon said that both could exist but four (4) ft is a very small area. There also has been discussion with DPW about sloped granite curbing, but it's not ideal for a sidewalk adjacent to the roadway. Our preference would be to do the wider paved area with a four (4) ft striped area and the other piece to keeping it with the road is that many people walk in the road even if there are sidewalks. C. Beer asked how wide the full paved area would be and will the impervious area increase. C. Branon replied the paved area would be 25-26 ft; the amount of pavement would actually be increasing and the sidewalk will be asphalt. The travel way must be 20ft and the walkway must be 4ft. A brief discussion on the sidewalk design ensued. P. Amato noted that there are no requirements to construct sidewalks in our ordinance. This developer is working with us and it is more important to get something rather than nothing. J. Levandowski added that section 7.03 of the Milford Development Regulations state that *..... the Planning Board may require sidewalks for pedestrian traffic to provide a connection between the main entrances of business, housing or industrial establishments, parking areas and along public roadways. The Planning Board may also require sidewalks from the road to the main building entrance or along the road frontage if there is a reasonable expectation pedestrian patrons, residents, neighbors, children, shoppers or employees would be traveling to or from the site.* J. Langdell said given the location to downtown Milford, the targeted price point of this development and the families who will buy here, there will be a lot of pedestrian travel. T. Finan said he's all for sidewalks and inquired if there were any examples of striped sidewalks in town; they are generally more urban. We're right around the corner from at least two schools so we

need to consider safety and with curbing, there's at least a barrier. C. Branon said this will be a low volume road from a traffic standpoint and not a through road. Children will be at different phases; some may walk or some may be bussed to the elementary school and "Safe Routes to Schools" have used this type of design. According to the ITE Manual, the average trip generation for a single family home is nine (9) trips per day, and from information for new developments in New Hampshire, that number is conservative. J. Plant said we need to be careful when using the term sidewalk. The general public doesn't always consider part of the paved road as a sidewalk. J. Langdell added that our role is to educate the public about the variety of options for pedestrian movement.

Chairman Beer opened the discussion pertaining to the road waivers to the public.

A. Frazier said she would recommend a raised sidewalk, mostly from personal experience. The first ¼ mile of Summer St, where I live, has raised sidewalks. There are children on it all the time and it is more comfortable to drive along that section. Also, a raised sidewalk would be consistent with existing sidewalks in town.

A. Seale, West St, said he didn't understand that the developer is promoting affordable housing and starter homes, yet states that there won't be too many children there and we won't really need these sidewalks. A striped sidewalk doesn't really make sense; it has to be raised and the Board shouldn't grant the road waiver. The road should be maintained at the right size and make sure the sidewalks protect the public. C. Branon responded by saying that the sidewalk topic has been brought up through interdepartmental reviews and reiterated that this type sidewalk is a recommendation from DPW. There are no standards for requirements in Milford to address this, so we technically meet any specifications, locally and request the sidewalk be as discussed; at the level of the road and be a widened paved shoulder with applicable striping and signage.

Chairman Beer closed the public portion of the meeting.

J. Langdell brought up staff comments from DPW and read page 4..... *willing to accept a less narrow road than proposed to accommodate sidewalk area to make it work, recommend sidewalk on one side only.....* Was this referring to a raised sidewalk or was it not specific. J. Levandowski stated the comment wasn't specific, but Rick Riendeau did mention that a striped sidewalk would be easier to maintain with a street plow rather than a sidewalk plow for a raised one; however, he does want a sidewalk there, either way. C. Branon added that in a separate conversation with Mr. Riendeau, he expressed his preference for a road level, striped sidewalk. T. Finan said he is not opposed to a striped sidewalk, but student parking for the school may pose an enforcement problem. S. Duncanson referenced several developments in Massachusetts and said people don't use the sidewalks and walk in the roadway. P. Amato said the road doesn't go anywhere and it's not a cut through. It may add a little more traffic and not help the existing traffic on West St, but it won't put West St over the edge. If we can get a place for people to walk, that's a win. J. Langdell agreed, and said while being sensitive to the other areas in town that were cited, those examples actually go somewhere. This sounds reasonable and we're not adding any major safety issues.

P. Amato asked if a crosswalk at West St was being proposed. C. Branon replied yes, we would have to provide a safe harbor to cross the street, but will have to discuss that with the School District as they may be losing a space. S. Duncanson stated that the parking spaces are town owned. J. Langdell added that good planning would be to talk to the School District and the Selectmen. She then inquired if there was enough ROW to put a striped sidewalk on the west side of West St to connect with the crosswalk at Osgood Rd. C. Branon said there are too many irregularities along that section of West St and you would be dealing with a different type of road with driveway crossings, mailbox placement, utility poles and other elements as part of vetting something like that out, but that is not something we would entertain.

J. Plant asked if any of the striped sidewalk area would be lost to snow in the winter when plowed. J. Levandowski answered that DPW will plow right to the edge, so nothing would be lost. C. Branon said that is one of the benefits, because DPW maintains the roads before any sidewalks and here, it will be done all at once.

P. Amato inquired about the utilities. C. Branon responded that all utilities will be underground; electric, natural gas, municipal water and sewer and communications.

C. Branon said the regulations measure the road to the center of the cul-de-sac which would be 1,800ft but the actual pavement will be roughly 2,100 linear ft. The road length waiver from the maximum 1,000ft dead end road is supported by Fire, DPW and Ambulance, as evident in the staff memo. This alternative meets the purpose of the regulations equally well or better than complying with the existing regulations. It provides a better design, makes for a better development, has less roadway to be maintained and ultimately in combination with our other waiver request will provide for less impervious coverage and a better stormwater design with the closed drainage. There will be a total of three (3) fire hydrants. Two were added in place of the blow-offs shown on the plan after our meeting with the Fire Department today.

P. Amato made a motion to grant a waiver from the dead-end road length to allow 1,800 ft of roadway plus the cul-de-sac. J. Langdell seconded and all in favor. P. Amato made a motion to grant the waiver to increase the road width to twenty-five (25) ft to include a striped sidewalk along the roadway bed. S. Duncanson seconded for discussion. J. Langdell noted that the language from the requested waiver was technically different. C. Branon amended the waiver request to state twenty-five (25') ft of pavement to include a pedestrian walkway and a four (4') ft grass panel. P. Amato revised the motion accordingly. S. Duncanson seconded with J. Langdell, P. Amato, T. Finan, C. Beer and S. Duncanson voting in the affirmative and J. Plant voting in the negative. J. Plant stated that she would have preferred raised sidewalks as it is a safety issue. The motion carried by a vote of 5-1.

C. Branon brought up phasing for the project and said we were under the impression that the Board has not been enforcing phasing and allocating building permits due to the status of development over the last few years. Our preference would be to phase the project over two years rather than four as outlined in the regulations. We're not saying this will be built out in two years, but we're trying to hit a market that is active and we certainly would like to have the opportunity to build homes if the market exists. We can submit a formal waiver request.

P. Amato asked how many houses could be sold in a year if there was no phasing. C. Branon said he couldn't answer that. There really isn't a new product in town in this price range to gauge this on. Cadran Crossing still has two more to build and there are projects in Nashua but they are in a higher market. S. Duncanson said if this were to be phased over two years, there could be seventeen (17) permits each year. J. Langdell said there's not that much difference from our phasing schedule. P. Amato asked if the entire road would be put in up front. C. Branon said the goal would be to build the road out, but from a practical standpoint, if we run into a timing crunch, or problems with mother nature, there may be a chance that we do a temporary turnaround to get a C/O.

J. Plant asked if the phasing would be open to the entire development. C. Branon said yes, the goal is to do all the drainage and the road to get it stabilized so we can convey the stormwater in those areas. The reality is that if we don't hit the timing perfectly, we don't want to stop the project for three months so we'd do it by section with a couple month lag time. There was consensus from the Board to consider a waiver request for phasing at the next meeting.

P. Amato made a motion to table the application to the 1/20/14 meeting. S. Duncanson seconded and all in favor.

OTHER BUSINESS:

Robert & Martha Cunningham – Lincoln St – Map 29, Lot 88; Discussion

Chairman Beer recognized:

Thomas Quinn, Attorney for the Cunninghams

Robert & Martha Cunningham, owners

Chairman Beer read the request dated 12/2/14 and read the background from the staff memo dated 12/16/14.

T. Quinn explained the history of the property located at 17 Lincoln Street and stated that the property is essentially the same as it was in 1976 when the Cunninghams bought it. These are very old lots and there was some discussion in 1990 with their abutters to the west, the Works about the common boundary line. Each party had their property surveyed which resulted in the plan dated 4/4/90 showing the "2,500SF filled area." Sometime between the 1943 plan referenced in their deed and 1990 when the survey was done, more land was created on their lot. This happened from 1970 to 1972 pursuant to a project instituted by the Town. Railroad Pond had been abused and was filled with runoff, erosion and junk, so there was an elaborate plan to dredge and deepen the pond

in various locations into different depths to encourage different types of wildlife and fish. It was during this time that the land was filled. We spoke to a neighbor who actually worked on that project and confirmed that's what happened. A lot of material was trucked off site, but some of it was just pushed up along the shoreline creating additional land on many properties around the pond, including some town owned property on South St. The shoreline was shaped, sloped, and graded to protect it from erosion. The question of ownership of the filled area came up in a title search when the property was for sale. It is also a problem because the garage sits on it. The contract has recently been terminated because the buyers couldn't wait any longer, so the property is still for sale and we have to resolve this problem one way or another. We have gone before the Select Board and they seemed receptive and are willing to consider our request for a release deed which would convey any right, title or interest if any, that the Town has in that land. The process, per RSA 41:14, is that we need a recommendation from the Planning Board and Conservation Commission in order for the Board of Selectmen to consider our request. We've gone before the Conservation Commission and they were generally supportive of what we asked and made two reasonable requests; that the town have an easement to continue to maintain the shoreline and that there be no further impervious material placed on the site. The Cunninghams are fine with that as well.

J. Langdell inquired if all three of the properties along that side of the pond are running into the same problem and will the Board of Selectmen address all? T. Quinn replied yes, but not at this time. If relief is granted for us, then I'd be surprised if it wouldn't be granted for the other two abutters if and when the request comes; however, the other two lots don't have a plan on file at the Registry of Deeds. Without this plan, the issue would not have come up. The Works have a survey that indicates the issue, but it was not recorded and a title examiner would not come across it.

Chairman Beer read the recommendation letter from the Conservation Commission dated 12/12/14. T. Quinn gave a brief history of the flowage rights and ownership of Railroad Pond and the shoreline. He also noted that the Town Lands Researcher did extensive research on the pond but never did find a deed establishing the Town's ownership of the bottom. If anybody other than the Town owned that land we could ask for a release deed or go to court to establish adverse possession to the property because it's been well over thirty years since that fill was placed. That would give us rights, but adverse possession doesn't run against the Town. However, adverse possession can run in favor of the Town, so whoever owns that land at the bottom of the pond, if it's not the Town, has lost any right to use the land because the Town has been flooding it since the 1800's. That is why we are asking for a release deed instead of a quit claim or warranty deed.

R. Cunningham stated that when he bought the property, the Work's driveway next door went directly to the pond. The trucks had just finished hauling the fill out of there so the pond was done shortly before we bought the house in 1976.

P. Amato made a motion that the Planning Board heard presentation by Attorney Quinn on the request for a release deed on parcel 29/88 and recommends that the Board of Selectmen approve the deed release. The Planning Board also concurs with the recommendations of the Conservation Commission in a memo dated 12/12/14 for an access easement from the pond for the filled portion of the lot and that no additional impervious surfaces be allowed on the property without approval. S. Duncanson seconded and all in favor.

Ashwood Development, LLC – Falcon Ridge Development – Maple St/Falcon Ridge Rd – Map 3, Lots 5 through 5-45. Request to amend revised improvement timetable and security relating to Falcon Ridge Development.

J. Plant recused herself and S. Robinson stepped up.

J. Levandowski gave an overview of the development and the revisions to the development agreement. She referenced an email from Carl Kasierski, dated 10/9/2014 requesting to extend the timetable to 10/31/2015 and also to consider extending Phase II on-site and off-site deadlines.

S. Duncanson inquired who Carl Kasierski represented. J. Levandowski explained that he works for Ashwood Companies and represents Falcon Ridge, LLC. MaRick owns the undeveloped lots and the Town

owns the road which was deeded over although it has not been completed or accepted yet. S. Duncanson asked how this Board can hear the case without authorization from both owners. P. Amato said the Board had requested something in writing at the previous meeting and he is still unclear as to who Ashwood represents. J. Langdell referenced documentation from Attorney Drescher and discussion ensued.

S. Duncanson said he would like a letter from every property owner that they approve of Carl Kasierski's request and who he represents, is clear. P. Amato said or the owners could all sign a letter that Carl represents them. J. Langdell said she would like to know who the people behind these companies are. P. Amato said that according to the Secretary of State's website, the registered agent for MaRick, Land Company, LLC is Morgan Hollis, Esq. and the registered agent for Falcon Ridge, LLC is Robert Moheban. S. Robinson said Attorney Drescher addressed some of the ambiguity of the ownership and read from page 6 of 7. Discussion followed regarding the ownership of the properties and whether Carl Kasierski had authority to act on behalf of the owners.

J. Levandowski noted that Attorney Drescher made a change in the timetable from 10/31/2015 to 7/1/2015, per the Board's request. J. Langdell questioned the different dates for Phase II on page 5 of 7; 10/15/2015 and 10/31/2015. J. Levandowski said she will get clarification.

P. Amato said he was comfortable that Attorney Drescher has reviewed this and written the revisions; he's protecting the Town. J. Levandowski stated that there was also a change in the cost for the work and it did go up. The same thing happened with the revised resolution in 2012 and we obtained additional security.

S. Duncanson made a motion to table the request to the 1/20/15 meeting to allow time for staff to resolve the possible typographical error in the document, and to get a letter from MaRick giving authorization for someone to represent them. P. Amato seconded and all in favor.

J. Levandowski noted that this revised resolution has not been distributed to the relevant parties as Attorney Drescher wanted the Board to review it beforehand. A brief discussion on phase I followed.

The meeting was adjourned at 10:25PM.

MINUTES OF THE DEC 16, 2014 PLANNING BOARD PUBLIC HEARING APPROVED JANUARY, 2015

Motion to approve: S. Duncanson

Motion to second: P. Amato